

FINAL MEETING SUMMARY

HANFORD ADVISORY BOARD BUDGETS AND CONTRACTS COMMITTEE MEETING

June 7, 2005

Richland, WA

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This is only a summary of issues and actions in this meeting. It may not represent the fullness of ideas discussed or opinions given, and should not be used as a substitute for actual public involvement or public comment on any particular topic unless specifically identified as such.

Welcome and Introductions

Gerry Pollet, Budgets and Contracts Committee (BCC) Chair, reviewed the meeting agenda and welcomed the committee.

Department of Energy (DOE) Contracting Plans

Shirley Olinger, Department of Energy-Office of River Protection (DOE-ORP), Leif Erickson, Department of Energy-Richland Operations Office (DOE-RL), and Mike Barrett, DOE-ORP, briefed the committee on DOE's approach and scheduling for the proposed Central Plateau contract process. They noted that the Source Evaluation Board (SEB) has not been announced yet; however, DOE is attempting to integrate the procurements and will determine the Source Selecting Authority and SEB soon.

The Central Plateau contract process can take anywhere from nine months to a year and a half. The process allows DOE to make its needs known and enables the industry contractors to provide information on how they can meet those needs.

Mike addressed several general contract management questions. He explained that typical DOE contracts have been Management and Operations (M&O) or Management and Integration (M&I) contracts; however, much of the cleanup work has moved away from M&O and M&I contracts in favor of using Cost Plus Incentive Fee (CPIF) or Cost Plus Award Fee (CPAF) contracts. There currently is only one Indefinite Delivery Indefinite Quantity (IDIQ) task order in the entire DOE complex.

The positive and negative aspects of each contracting type were presented to the committee. The M&O and M&I contracts have worked well with ongoing operations, but with more cleanup work going on now, DOE is trying to employ more incentive-based contracts. IDIQ contracts are best used for well-defined work scope with a clear end state. There are several uncertainties with work planning that make some contract types more appropriate than others. In the future, DOE contracting may use all or a number of different contract types or pricing arrangements. Regarding options for Central Plateau cleanup, no conclusions have been reached for how best to parcel out the work. CPIF contracts require predictable funding scenarios but are not appropriate contracts if the end state is uncertain or funding is less stable.

Regulator Perspectives

Melinda Brown, Washington State Department of Ecology (Ecology), said Ecology has two objectives regarding Hanford cleanup activities: 1) achieve Tri-Party Agreement (TPA) milestones, and 2) protect human health and the environment. Ecology would not normally tell DOE to use a specific contract approach for work scopes; however, they do keep an eye on the results of different kinds of contracting.

John Price, Ecology, said there are not many cleanup milestones in the 200 Area, so it should be possible to coordinate the timing of a contract award with cleanup work in the 200 Area. John added it is good to know DOE recognizes the need for increased integration, since integration issues will grow as cleanup work progresses.

Committee Discussion

- *Will DOE examine the possibility of having one contract for the entire Central Plateau and do away with the division between ORP and RL?* Shirley said both offices are looking at similar work scopes, and it may end up making sense to have one contractor perform similar types of work in the Central Plateau. Leif said not enough work has been done to determine whether the scope will necessitate one contractor or multiple contractors.
- *What is the typical level of a work order under an IDIQ contract?* Leif said IDIQ contracts have typically been used for small-scale work orders; however, there is no reason an IDIQ contract could not be used for larger work orders.
- *Can IDIQ contracts be used for work created by emerging needs?* Leif said IDIQ contracts could be used for emerging work needs. Shirley added that one potential problem with using IDIQ contracts for emerging work is if the scope is already there and the money is already appropriated, it is hard to initiate an IDIQ.
- Since not all the Records of Decision (RODs) are in place yet for the Central Plateau, and therefore no clear end states have been identified, there are concerns about providing contractors with incentives to complete work quickly. Shirley said those are major considerations, and DOE would not want to use a CPIF or firm-fixed price contract in those cases. To ensure sound decision-making and accountability, Leif

said DOE would prefer contractors doing the front-end work have some stake in the work being done in the field.

- Several committee members expressed concerns about a loss of continuity and potential changes to work being done as a result of contracting decisions. With respect to next generation of contracts, Leif said those factors are part of the discussion and are important considerations. There are currently some examples of continuity, such as the plan to maintain incumbent employees under new contracts.
- The committee discussed issues relating to contract length. Leif and Shirley said the length of contracts would be determined by what makes sense considering the scope of work. They indicated there is a need to balance work continuity with providing contract competition. Leif indicated that DOE does not typically contract longer than 10 years; however, there is some congressional language that allows for longer contracts specific to remediation work.
- Harold Heacock noted DOE has not yet responded to the Hanford Advisory Board's (Board) advice letter about contract extensions. Leif said they have read the letter and are thinking about the appropriate response. DOE has a bias for competition in contracting, so they need to address competition while still maintaining cleanup responsibilities.
- *If there is a finding of retaliation for a safety concern on a project, there should be a loss of fee to the contractor. Does DOE plan to include that in the discussion of developing a contract process for the Central Plateau?* Leif said that is not part of the Conditional Payment of Fee (CPOF) clause in the contracts, but there is a broad ability for DOE to withhold fee.
- Some committee members expressed concern that DOE officials feel constrained about employing the option to withhold a contractor's fee. Leif said he has been a fee determination official, and never had a problem applying the option to withhold fee from a contractor. It is the responsibility of the fee determination officials to use the tools available to ensure safe work performance.
- *Is DOE addressing the Government Accountability Office (GAO) report's findings?* Leif said DOE is looking into addressing the issues presented in the report. Harold will put together some bulleted highlights from the report for discussion at the next committee meeting.
- *Does DOE have the flexibility to add contracting oversight staff depending on the particular contracting strategy that is eventually chosen?* Leif said that is currently under discussion. Gerry commented that perhaps oversight staffing is an issue about which the Board should consider issuing advice. Shirley explained that where DOE can utilize IDIQ contracts, with a well-defined scope, they could allow work to go to a CPIF or firm-fixed price contract, which drives more oversight on the government's part. Leif commented that much work needs to be done but DOE clearly does not have resources to engage in dozens of contracts that require oversight. Joe Voice, DOE-RL, said that does not necessarily mean adding staff, but is often a decision to retrain or re-apply existing staff.

- *Since several large contracts end around the same time and Hanford cleanup work is on a tight schedule, is there a contracting strategy from DOE Headquarters (HQ)?*
Leif said the contracting strategy for Hanford was brought back under the direction and development of the local DOE offices.
- *In early exchanges about cleanup activities, does DOE tell potential contractors about the safety and environmental requirements they would have to operate under?*
Leif said DOE does have conversations with contractors about work and safety requirements. Many of the potential contractors for Hanford work are already familiar with DOE requirements.
- Committee members expressed concern about contracts being based on potentially incomplete baselines. The committee has heard before that end states and baselines are the foundation for contracts. Cost basis, work scope, and work schedule need to include what will be required, not just what the baseline says.
- Todd Martin mentioned several points from the discussion not included in the April Board contracting advice. These points may come up in later advice as the contracting process moves forward.
 - Central Plateau milestones should be coordinated with the awarding of contracts. Whatever contract mechanism DOE chooses should support the cleanup work being done on the Central Plateau.
 - Contracting mechanisms should be supportive of the TPA process and the Board's retrieve, treat, and dispose bias, and should not increase the conflict between DOE and the regulators.
 - Integration challenges should be dealt with.

Update on Fiscal Year (FY) 2006 & 2007 Budgets

Greg Jones, DOE-RL, and Kevin Ensign, DOE-ORP, provided the committee with updates on the status of the FY06 budget and FY07 budget submissions for DOE-RL and DOE-ORP. They provided a summary of the budget process schedule and reminded the committee that DOE is working with the budget numbers on a daily basis, so there are no final numbers to present. \$200 million in funding was restored to the FY 2006 budget by the U.S. House of Representatives; the budget now goes to the U.S. Senate. The local DOE offices are hoping the Senate process will be finished by December 31. The FY 2007 budget was submitted to HQ as an over-target budget request. Most of the budget data is officially embargoed at this time.

Regulator Perspectives

Melinda said Ecology feels their concerns have been made public: TPA commitments are the most important issue. Ecology has also provided input on issues with groundwater, new wells, well decommissioning and emerging contamination plumes. While much of Ecology's comments and concerns have not come in the form of direct input, they have made their concerns very clear to the DOE field offices.

Committee Discussion

- *What budget data is available for discussion?* Greg explained that the future years' budget data is embargoed, but the FY 2006 five year out budget document is a public document and available for discussion. He said he would share the link to the document with the committee.
- *In the event of a continuing resolution, is there any direction from DOE to its contractors indicating that they may not have to lay people off?* Greg said if a final budget is not issued, DOE would use the lower submission from Congress and would tell contractors not to make lay offs.
- *What were the major changes in the FY 2007 budget request and why were they made?* Greg provided the committee with an update on the modifications to the DOE-RL funding requests in the FY 2007 budget request. DOE-RL worked to ensure groundwater protection was a funded activity. Funding for the Plutonium Finishing Plant (PFP) was moved around quite a bit. There were also some increases in funding requested for safeguards and security to protect nuclear material. DOE is currently working on other scenarios that may impact these figures, but those scenarios contain embargoed data.
- *When will the actual dollars for FY 2006 be known and available?* Greg said they would be very fortunate to have the final appropriation by September. Kevin said once the Senate mark-up is complete, the comparison with the House mark-up will help the local DOE offices estimate how long it will take to receive the final appropriation. Greg told the committee that the local DOE offices are working with the President's budget until they receive an appropriation that allows them to do otherwise. Typically the budget figures from the House of Representatives are lower than the budget figures from the Senate; since the House number is high this time, there is hope for significant funding additions.

Budget Process

Joe Voice said the communication process regarding budgets has been awkward. He provided the committee with some ideas for enhancing the communication of the budget process. He suggested an improved explanation of the budget process would enable Board members to more clearly understand: What is the current budget situation? What is the budget being used for? What is being accomplished with funding? He said this would provide a more real-time discussion of what is going on with the budgets for Hanford cleanup activities versus picking a discrete time to examine the budget process.

Committee Discussion

- Harold reminded the committee that the budget process document was developed in 2002 when DOE was using a different process. He suggested a more useful approach would involve looking at baselines and TPA milestones, then looking at the budgets based on guidance and baselines, and then looking at any disconnects that emerge. .

- Several committee members expressed the desire to have access to budget information in time to make useful comments to DOE. Joe said if budget information is being examined on a more real-time basis, then Board members will have a sense of what the issues are at the time of budget formulation, which would cut down on the catch-up time required to understand budget information. Gerry suggested DOE could conduct baseline revisions at the same time as a review of budgets each year. Melinda cautioned that revising a baseline would require resolution of regulatory issues, and therefore the Tri-Party agencies would have to agree to change a TPA milestone before there is a change to a baseline.
- The committee discussed updating and modifying the budget process document. Some committee members felt it could serve as a clear outline of the budget process, and at the very least be a good resource for new committee members. Gerry said it would be useful to try and recapture the concept behind the original budget process document. Todd commented that DOE baselines seem so fluid; he would like to develop a way for the Board to deal with this baseline fluidity, especially regarding issues of particular concern.
- Todd asked whether the Board has made an executive decision not to advise funding work in the K Basins. Gerry said the Board's system has been to continue support for funding activities that are regulatory requirements. Todd clarified his question, asking if the Board has decided whether it will advise DOE to fund certain projects over other projects it deems less pressing. Some committee members said the Board has not officially addressed that issue. The Board has not issued advice on funding certain projects over others, but has said they will advise DOE on project priorities based on the budget appropriation. This is the first time there has been a funding deficit, so several committee members expressed the need for the Board to weigh in on the allocation of appropriated funding.
- There was general committee agreement that, due to funding constraints, the Board will have to advise DOE about which projects to fund in the future. Al Boldt commented that the Board's recent piece of advice on the FY 2006 and FY 2007 budgets was probably used in Congress to impact the outcome of the budget, so the Board should make its annual budget recommendations at the right time to influence appropriations.
- Gerry will revise the budget process piece, send it to Joe to see how it fits in with the process DOE-RL goes through, and then send it on to the other agencies and committee members.

Draft Advice on Small Business Contracting

The committee considered the draft advice Keith Smith wrote concerning small business contracting. Keith expressed his appreciation for being able to meet with DOE staff (Joe Voice and Doug Shoop) for their feedback in developing the advice.

Committee Discussion

- Harold said he was not sure should the Board should say anything in advice about reviewing a company's history regarding safety practices, since there is no standard for determining good or bad performance. Instead, he said DOE should examine the standards and requirements a contractor operated under and whether they met their requirements. Gerry said the Board and the public expect a review of a contractor's performance; Harold said that was fine as long as such a review is tied back to a contractor's particular operating requirements.
- Based on the committee's discussion of the advice, some changes were made to the advice. Keith will make the changes and circulate the advice through he committee one last time before the June Board meeting.

Committee Business

- Keith will introduce the advice at the Board meeting and provide the background on the topic. Joe indicated DOE could provide some support for a general discussion on the advice.
- There was committee agreement that a briefing on the status of the budgets would be useful, including an appropriations update and the rationale for the modifications to the FY 2007 budget request.
- The committee adopted the meeting summary from the April committee meeting.
- The committee decided no committee call is needed in June.
- The committee expressed interest in having a joint meeting with the Tank Waste Committee whenever the Estimate at Completion for the Waste Treatment Plant becomes available.
- The committee decided August would be good time to schedule the next committee meeting.
- As per the Executive Committee's decision, BCC will conduct its leadership selection once the leadership positions are made for the technical committees (River and Plateau Committee and Tank Waste Committee).

Handouts

- Central Plateau Contract, Leif Erickson, DOE-RL, Shirley Olinger, DOE-ORP, and Mike Barrett, DOE-ORP, June 7, 2005.
- FY 2007 Budget Request Briefing to Hanford Advisory Board – U.S. DOE.
- FY 2006, FY 2007 Budget Update to Hanford Advisory Board, Howard Gnann, April 28, 2005.
- U.S. DOE Hanford FY 2006 Request in Comparison to House Energy and Water Appropriation for FY 2006 and FY 2007
- Target Budget for Richland and ORP Field Offices.
- The Federal Budget Process Summary.
- Draft Advice: Small Contractor RFP and Selection, Keith Smith.

Attendees

HAB Members and Alternates

Al Boldt	Susan Leckband	Gerry Pollet
Earl Fordham	Jeff Luke	Keith Smith
Harold Heacock	Todd Martin	Lynda Horst (by phone)

Others

Leif Erickson, DOE-RL	Melinda Brown, Ecology	Bryan Kidder, CHG
Greg Jones, DOE-RL	John Price, Ecology	Althea Huesties-Wolf, CTUIR-ORP/Public
Joe Voice, DOE-RL		Lynn Lefkoff, EnviroIssues
		Jason Mulvihill-Kuntz, EnviroIssues
Mike Barrett, DOE-ORP		Barb Wise, FH
Kevin Ensign, DOE-ORP		Sharon Braswell, Nuvotec/ORP
Shirley Olinger, DOE-ORP		John Stang, Public
		Annette Cary, Tri-City Herald